

REMARKS

On 11 August 2004, an Office Action reporting the Examination of Claims 39 through 50 and the Applicant's oral withdrawal of Claims 1 through 38 in response to a restriction requirement placed on the application. The remaining pending claims, Claims 39 through 50, were rejected pursuant to 35 U.S.C. §103. Additionally, informalities were noted in the specification in that a trademarked term was improperly set forth; reference numbers were duplicated, and Claim 39 was judged informal under 35 U.S.C. §112, second paragraph.

The Examiner imposed a restriction requirement and contracted the undersigned, who on behalf of the Applicant has provisionally selected the Claims 39 through 50 for prosecution in this application. The Applicant formally withdraws the restricted claims, Claims 1, through 38 and the amendments to the claims have so noted the withdrawal. Claims 39 through 50 remain for prosecution under this application.

The Examiner has noted that the Specification has included the trademark VELCRO but in an unsuitable case. The Applicant has amended the specification to correct the informality and no new matter has been added.

Additionally, the Examiner noted the ambiguity introduced into the drawings where both 30 and 32 appear to be designation the diaper bag. The Applicant has amended the Specification to reflect that the diaper bag was set forth as reference number 30 and the pouch of the diaper bag distinctly referenced as pouch 32. No new matter has been added. In light of the amendments to the Specification, no further amendment to the drawings is necessary.

Claims 39 through 50 were rejected under 35 U.S.C. §103 as obvious over Hicking (United State Patent 3,693,190) in light of Ketch (United States Patent 5,282,749). The Examiner asserts that Hicking includes teaching that a label illustrates the placement of the head in a swaddling blanket and further that locations of fasteners on the swaddling blanket inherently

illustrate the locations of folding lines that occur when the fasteners are connected to fold the blanket.

The Applicant respectfully disagrees with the Examiner. Taken alone, the Hicking patent does not teach any illustrations to aid in the folding of the swaddling blanket around the infant. The only reference to a label, appliqué, embroidery, embossment, or weave of information onto the blanket is at Column 2, Lines 50-53, to wit: "The upper corner of face 11 has a label 20 or other indicia means which functions to indicate the location where the infant's head is to be placed." There is no teaching of an illustration to show the actual procedure for folding the blanket. Indeed, the only teaching that could be said to be enabled is a label that states "Place infant's head here" or words to that effect. The teaching nowhere includes actual fold lines either on the blanket itself nor in an illustration of the blanket. The placement of snaps may suggest folding the blanket but the taught blanket, if placed in the hands of an untaught person, the person would have to learn by "trial and error." The Applicant respectfully asserts that there is no teaching of an illustration to assist the untaught person how to swaddle. That being absent, Ketch must teach both the presence of an illustration and a motivation for combining the references.

Ketch, however, does not teach an illustration of the folding of a garment but rather the use of illustrations to guide the folding of the garment. In Column 2, Lines 27 to 31, the patent teaches its object: "The present invention relates to clothing designed to teach children how to fold clothes. By placing matching pairs of illustrations or fold line illustrations at predetermined locations on an article of clothing or other object a child can be taught how to fold by either matching the pairs of illustrations or folding along the fold line illustrations in sequential order." And further, at Column 3, Lines 22 to 44:

"Disclosed below are various preferred embodiments of the claimed invention. Although the clothing disclosed in the figures and described herein are directed to shirts, pants, and skirts the claimed invention is not limited to same. As will be readily apparent to those skilled in the

art, the present invention can be applied to any clothing item that requires folding. Additionally, the specific illustrations disclosed in the figures and described herein used for matching or identifying fold lines or indicating the proper fold sequence are for example purposes only and are not intended to limit the type of illustrations that can be used to practice the claimed invention. Also, as will be readily apparent to those skilled in the art, any type of pairs of matched illustrations or matching means incorporating some fold sequence indicating means can be used on the clothing. Finally, the fold patterns indicated in the accompanying figures and described herein are symmetrical. Therefore, any reference to left-right orientation can be reversed and still yield the same fold pattern.”

In short, neither reference actually teaches the presence of a guide for folding. If, as used in either reference, the folding occurs, a serious flaw not present in the instant invention becomes evident. A very light baby has distinct dimensions from a heavier and more mature baby. In either of the references, exact alignment of the suggested fold is necessary either to get the fasteners to close or to get the illustrations to suitably align. As either or both of the references teach, the user is not free to vary the dimensions of the folds, as the needs of the infant require.

Thus, not only do the combination of Hinkling and Ketch fail to teach the illustrated guide to swaddling an infant, they do not teach either singly or in concert the illustrated guide to swaddling based upon either indications on the blanket or attached thereto. Rather, the sole use of illustrations is taught only in Ketch, and there only as matching points for material much as fasteners are used for securing material in a fixed relationship as taught in Hinkling.

Thus, the lack of an illustrated guide to swaddling in either of the references indicates that the citation to Hinkling and Ketch does not make the claim instant invention obvious.

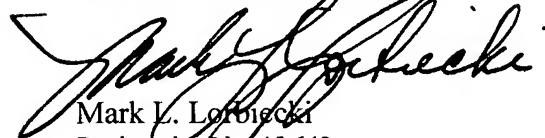
CONCLUSION

Having addressed the issues set forth in the Office Action and further having amended the complaint to cure the noted informalities, the Applicant respectfully asserts that the

Application stands in a condition for allowance. Applicant respectfully requests that any questions this response evokes with the Examiner be addressed to Applicant's attorney, the undersigned.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}



Mark L. Lorbiecki
Registration No. 45,643
Direct Dial: 206.903.1800

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

1/18/05

Date of Deposit



Michelle J. Carman


25315

CUSTOMER NUMBER

- 9 -

SWAD-1-1002ROA

BLACK LOWE & GRAHAM^{PLLC}



701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301